

**HUSKY-PORTS AMERICA WASHINGTON MARINE TERMINAL COOPERATIVE
WORKING AGREEMENT**

FMC Agreement No. 201240

A Marine Terminal Cooperative Working Agreement

Expiration Date: [None]

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ARTICLE 1: FULL NAME OF AGREEMENT

This Agreement shall be known as the Husky-Ports America Washington Marine Terminal Cooperative Working Agreement (“Agreement”).

ARTICLE 2: PURPOSE OF AND NEED FOR THE AGREEMENT

The purpose of this Agreement is to promote the most efficient use of port and terminal assets and resources by permitting the Parties (as defined below) to discuss, negotiate, and enter into agreements (between or among the Parties and with third parties) that rationalize, schedule, and otherwise relate to the use of the Parties’ wharves, berths, cargo handling equipment, facilities, data, and other properties and assets, to cooperate and coordinate with each other, and to enter into agreements related to any of the foregoing, including exchange of information and data, all to improve efficiency and save costs while directly and indirectly benefiting the shipping public.

ARTICLE 3: PARTIES TO THE AGREEMENT/GEOGRAPHIC SCOPE

The Parties to this Agreement (each a “Party” and together the “Parties”) are marine terminal operators as defined in the Shipping Act of 1984, as amended (the “Shipping Act”), 46 U.S.C. § 40102(14). Each Party operates public wharves and other marine terminal facilities in connection with ocean common carriage.

This Agreement covers services and activities of the Parties at the respective terminals operated by the Parties in the Port of Tacoma, Washington, as established under the laws of the State of Washington (the “Port”).

The Parties are identified in Appendix A.

ARTICLE 4: SCOPE OF AGREEMENT/AGREEMENT AUTHORITY

4.1 Authority.

(a) The Parties are authorized to meet together, coordinate, cooperate, consult, discuss, reach agreement, and implement, or effectuate agreements (including subcontracting arrangements between or among the Parties), and take such other actions as may be authorized herein to further the Purpose of this Agreement (Article 2). This authority includes authorization to exchange information, discuss, and agree upon matters relating to cargo moving in the foreign commerce of the United States concerning:

1. Operational matters related to the interchange of cargo, chassis, and containers with motor carriers and/or rail carriers, including security (including physical and cyber security), data and privacy compliance, access control, gate rules, appointment systems, turn times, truck idling, on-terminal equipment use and/or storage, measures to reduce vehicle congestion at terminals and surrounding areas, demurrage, detention, billing, compliance with interchange/leasing arrangements, indemnification and limitations of liability, and resolution of disputes and complaints, other compliance and related issues, and costs relating to any authority provided for in this Agreement;

2. Matters involving or affecting peak and off-peak operations and efficiency and operational matters (including true-up costs and assessments among the parties, but not specific fees or charges assessed against third parties) concerning the cost recovery of any related measures;

3. The implementation and/or administration of measures with respect to the operation of marine terminals mandated or established by the Port, federal, state, or local governments, or other governmental authorities or agencies, including standards and criteria for cargo interests, inland carriers, or others seeking access to port or marine terminal facilities, and/or operational matters concerning the imposition of fees (other than fees addressed pursuant to a conference agreement) on users of marine terminals, in connection with programs for the reduction of air or other pollution attributable to activities in and around marine terminals and compliance with federal, state, local, and port standards for the environment, emissions levels, and measures designed to achieve such standards. In furtherance of this objective and without limiting their authority with respect to same, the Parties are authorized to:

(i) Meet, discuss, and exchange information among themselves and/or with federal, state, and local governments, port authorities, ports, ocean carriers, rail and truck carriers, equipment manufacturers and providers, and others regarding activities or conditions impacting or relating to environmental issues, including the establishment of programs to minimize the environmental impact of port and terminal operations and measures to implement and enforce such programs; measures to meet or implement mandatory or voluntary port or other legal or regulatory requirements with respect to air quality at the Port, including any clean air action plan promulgated by the Port; measures to promote the purchase or use of newer and/or more environmentally-sound equipment in or near the Parties' terminals, including truck or engine replacement programs;

(ii) Reach agreement among themselves on positions with respect to any matter within the scope of this Article and communicate such positions to the relevant authorities; and

(iii) In connection with implementing, maintaining, and/or administering any or all aspects of any programs described in this Article and established or mandated by federal, state, or local governments, the Port, or other governmental authorities or agencies, discuss, and agree upon procedures, practices, terms, conditions, and other measures at the Port, including: standards and criteria for user access to marine terminal facilities; operational matters concerning the imposition or collection of fees (other than fees addressed pursuant to a conference agreement) on users of marine terminals; seeking or providing sources of funds; seeking, obtaining, and administering loans or grants from federal, state, and local governments and government agencies, ports and port authorities, quasi-governmental entities, and other sources to help fund such programs; the development of databases to be used in administering or implementing any or all aspects of any of the foregoing; and the recovery of the costs and distribution of funds;

4. The improvement of Port and cargo security and compliance with federal, state, local, and other standards with respect to same. In furtherance of this objective and without limiting their authority with respect to same, the Parties are authorized to:

(i) Meet, discuss, exchange information, and reach agreement among themselves and/or with federal, state, and local governments, Port authorities, ocean carriers, rail and truck carriers, equipment manufacturers and providers, cargo interests, and other interested parties regarding port and cargo security issues at the Port; and

(ii) Discuss, agree upon, and implement measures to acquire, test, deploy, operate, and upgrade transportation worker identification credential ("TWIC") technology and other port and cargo security technology (including hardware, software, and databases) at the Port,

and to seek, obtain, and administer grants from federal, state, and local governments and government agencies, quasi-governmental entities, and other sources to help fund such technology-related activities; and

5. Compliance with statutes, regulations, practices, standards, and other similar issues and matters, including the Shipping Act, Federal Motor Carrier Safety Regulations, state motor vehicle safety regulations approved by the Department of Transportation, International Maritime Organization requirements, and other international health, safety, security, and environmental requirements, practices, and issues, the Maritime Transportation Security Act of 2002 (and as it may be amended), United States Coast Guard rules and regulations, and other current or future regulations and any changes or amendments to any of the foregoing.

4.2 Service Cooperation. In furtherance of the authorities set forth in Article 4.1, the Parties are authorized to engage in the following activities, subject to any applicable filing requirements:

- (a) Consult and agree upon any matters set forth in Article 4.1;
- (b) Consult and agree upon the allocation and use of equipment, chassis, resources, and services for efficient and competitive service levels, including an allocation among the Parties of an agreed portion of any revenue or costs to true up the Parties' respective costs and contributions;
- (c) Consult and agree upon joint contracting for the purchase, ownership, lease, or operation of equipment, facilities, and any services related to such equipment or facilities;

(d) Consult and agree upon any temporary measures and adjustments in response to any changes in market conditions, including seasonal, force majeure, and similar issues and circumstances;

(e) Establish and maintain such standing or ad hoc committees as the Parties deem necessary or appropriate to consider, review, make, and implement administrative, accounting, operational, and policy decisions relating to the matters within the scope of the Agreement. The Parties may also establish and maintain one or more Agreement coordination offices, titles, positions, or combinations thereof to maximize the efficiency of the Parties' efforts and the related services within the scope of this Agreement (collectively, a "Coordinator"). Each Coordinator shall be authorized to perform day-to-day management, administrative, data and information collection and analysis, service coordination, contract negotiation and coordination, financial audit, review, and settlement, service inspection and observation, long-term planning, and other functions related to the Purpose of this Agreement, and each Party may embed a Coordinator in the other Party's office; and

(f) Meet, discuss, confer, and agree regarding any matter authorized by this Agreement for the purpose of determining positions to take in any conference to which the Parties both belong.

4.3 Data and Information Collection.

(a) The Parties are authorized to collect, obtain, compile, maintain, analyze, and develop operational data, records, statistics, studies, compilations, consultancy reports, forecasts, projections, know-how, and information regarding customers, assets, leases, and providers (collectively "Data") and to exchange, compile, maintain, analyze, and develop such Data, subject

to any applicable confidentiality clause. The Parties are authorized to consult, meet, discuss, and agree on any matter regarding the authority described in this Article 4.3.

4.4 Discussion and Exchange of Information. In furtherance of the authorities set forth in Article 4.1, the Parties are authorized to meet as appropriate to discuss and exchange information regarding the following subjects:

(a) Joint or independent acquisition and utilization of marketing materials for individual ocean common carriers and collections of carriers (conferences, alliances, joint services, carrier networks, and other agreements to which ocean common carriers are parties) (all such entities collectively “Carriers”), shippers, beneficial cargo owners, and ocean transportation intermediaries;

(b) Commercial opportunities regarding Carriers. This includes vessel calls and rotations, operational efficiencies, cost reductions, the changing shipping environment, large ship operations, supply-chain technology, stevedoring, gate, rail and yard operations, warehousing, safety and security, customer service, and new product lines;

(c) Joint or independent acquisition, utilization, and best practices relating to operating systems and equipment, including operational metrics relating to the repair and use of chassis and containers, provided that this Agreement does not cover discussions regarding the purchase or lease prices for containers or chassis;

(d) Cargo handling practices and terms, gate operations and access, turn times, staffing, and infrastructure;

(e) In addition, the Parties are authorized jointly to meet with and exchange information with Carriers, shippers, other marine terminal operators, beneficial cargo owners, and ocean transportation intermediaries regarding operational issues and performance criteria at the Port; and

(f) Nothing contained in this Article 4 permits the Parties to exchange or share non-public information that is subject to a confidentiality agreement or restriction prohibiting or restricting such sharing or exchange.

4.5 Rights and Liabilities. The Parties are authorized to discuss and agree on their respective rights; fair and reasonable allocation of liabilities among the Parties; apportionment of damages; satisfaction of claims; procurement of insurance and management of claims thereunder; and indemnities for activities under this Agreement; matters pertaining to cargo loss or damage, damage or loss to containers or other equipment, schedule or delivery delays; loss or damage to a vessel; accidents; hazardous, dangerous, breakbulk, or oversized cargo, loss or damage caused by cargo, damage to persons or property; failure to perform; force majeure; and any other liability among the Parties or to third parties.

4.6 Implementing. The Parties are authorized to meet, confer, discuss, and negotiate and enter into any implementing arrangements, writings, understandings, procedures, and documents that are within the scope of this Agreement and any of the foregoing that may be ordinary and necessary to fulfill the Purpose of this Agreement, including authorization to:

(a) Meet, individually or collectively, with users (including inland carriers, ocean common carriers, and/or cargo interests), government agencies and officials, and others to discuss

and attempt to reach a consensus with respect to the development, implementation, and administration of the authorities contained in this Agreement;

(b) Agree upon and undertake the formation, management, financing, administration, and operation of any business or businesses incidental to or permissible under the authority of this Agreement; evaluate, grant, deny, cancel, and administer credit to customers of the Parties; receive from and/or distribute to any or all of the Parties confidential financial, credit, creditworthiness, and payment data or other information regarding carriers, shippers, consignees, or other persons obligated to pay any charge or fee owed or due to a Party or determining creditworthiness; reporting to the Parties regarding same; and/or otherwise implement the Parties' decisions, including the authority to subcontract any responsibilities to third-party vendors. The Parties themselves may also directly exercise any of the above authority;

(c) Agree upon and establish procedures for implementing and administering any agreement reached hereunder with respect to the authorities contained in this Agreement, which procedures may be set forth in an appendix hereto and/or one or more marine terminal schedule(s); and

(d) Agree upon and establish procedures for monitoring compliance with agreements entered into hereunder pursuant to the authorities contained in this Agreement and remedies for breach of such agreements.

4.7 Joint Development. The Parties are authorized to consult, discuss, and agree on the terms and conditions of joint research, development, implementation, interchange, licensing, and

use of documentation, data, technology, and other systems and practices and computerization, communications, software, and related requirements or improvements.

4.8 Related Work and Matters. The Parties are authorized to meet, discuss, and agree upon any matters regarding any concepts, know-how, data, software, and other second generation products or ideas of the activities and discussions authorized by this Agreement and to develop and implement agreements related thereto.

4.9 Limitations and Filing Requirements. Nothing contained herein shall be construed as extending antitrust immunity to any non-party, including those non-parties specifically excluded from the Shipping Act's antitrust limitations in 46 U.S.C. § 40307(b)(1). Implementation of any agreements between the Parties or with third parties shall be subject to the filing and effectiveness requirements of the Shipping Act and the Federal Maritime Commission's implementing regulations, to the extent applicable.

ARTICLE 5: ADMINISTRATION AND DELEGATION OF AUTHORITY

This Agreement will be administered by the Parties through their respective Chief Executive Officer/Executive Director or individuals delegated by the Parties' respective Chief Executive Officers/Executive Directors. The activities may be carried out by face-to-face meeting, telephone or video conference, electronic mail or other electronic communication, or such other means of communication as the Parties may deem appropriate. The Parties may establish such committees as they deem appropriate for furtherance of the purposes of this Agreement.

The Parties' respective Chief Executive Officers, or their delegates, are authorized to execute this Agreement and any subsequent amendments hereto on behalf of the Parties, and to

make or authorize the filing of this Agreement and any subsequent amendments with the Federal Maritime Commission, as well as the filing of minutes of discussions covered by this Agreement as and when required by 46 C.F.R. § 535.704.

ARTICLE 6: VOTING

Except as specifically otherwise provided hereunder, all matters relating to this Agreement shall be by mutual agreement of the Parties.

ARTICLE 7: CONFIDENTIALITY

The Parties agree and understand that all information exchanged under this Agreement may contain non-public, confidential business information, and trade secrets. The Parties shall treat all non-public information exchanged pursuant to this Agreement as confidential. The Parties recognize that such confidentiality may be limited by legal requirements applicable to one or both Parties under federal, state, or local law.

The confidential information of each Party shall remain the property of the Party despite being shared with the other Party. In the event either Party elects to terminate this Agreement, both Parties will return, or certify the deletion and/or destruction of, any confidential information received from the other Party under this Agreement. The obligations under this Article survive the termination of the Agreement.

ARTICLE 8: EFFECTIVE DATE, DURATION, AND TERMINATION

This Agreement will become effective on the date it becomes effective under the Shipping Act, and will remain in effect indefinitely. Either of the Parties may terminate this Agreement at any time upon thirty (30) days prior written notice to the other Party at the address set forth herein.

ARTICLE 9: AMENDMENTS

The terms of this Agreement may be amended by mutual agreement of the Parties. Such amendments shall be in writing, signed by the Parties, and to the extent required under the Shipping Act, shall be filed and shall become effective as provided in the Shipping Act and applicable regulations.

ARTICLE 10: NOTICES

Any notice permitted or required under this Agreement shall be in writing and served on each Party at the address set forth herein (or such other address as may be designated by the Party), either by electronic delivery, first class certified mail, return receipt requested, or by overnight delivery service.

ARTICLE 11: COUNTERPARTS

This Agreement and any future amendment hereto may be executed by the Parties' duly-authorized representatives in multiple original counterparts. Each counterpart shall be deemed an original, and all together shall constitute one and the same agreement.

ARTICLE 12: LAW AND MEDIATION

This Agreement shall be governed by, and construed in accordance with, U.S. Maritime law, including the Shipping Act, and to the extent any matter is not addressed thereby, by the laws of the State of Washington. In case of a dispute arising under or relating to this Agreement, the Parties agree to attempt to settle the dispute amicably through non-binding mediation before bringing any action. A Party may invoke mediation by submitting a written notice to the other Party. The Parties will attempt to agree on a mediator within ten (10) days of the written notice and mediation will conclude within 30 days of the written notice unless the Parties agree to an extension of mediation.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of this 14th day of February, 2018:

Ports America Washington, Inc.

Ray McQuiston
Senior Vice President

Husky Terminal And Stevedoring, Inc.

Keiji Kubo
Chairman/CEO

APPENDIX A

The names and addresses of the Parties are:

Tacoma Container Terminal

Ports America Washington, Inc.
525 Washington Blvd., Suite 1660
Jersey City, New Jersey 07310

Husky Terminal

Husky Terminal And Stevedoring, Inc.
1101 Port of Tacoma Road, Pier Four
Tacoma, Washington 98421